

In typical Bluegrass fashion, neighbors are helping one another as best they can. According to the owner of Parkette Drive-In in Lexington, even as prices for ingredients like chicken have nearly doubled, he has chosen to cut back as much as possible on his end to avoid raising prices for customers.

But as hard as Kentuckians try, Democrats' reckless policies are coming home to roost. As one father of four who lost his job following the devastating Mayfield tornado in December put it, "there's no stretching money at this point."

An outright majority of Americans say inflation is not at all under control. Seven in 10 say our economy is in bad shape, and by all accounts, they know exactly whom to blame for a year of painful challenges.

Sixty-three percent of Americans, nearly two-thirds, say they disapprove of how President Biden is handling the economy, and that number just keeps rising.

But Washington Democrats do not appear to have gotten the message. The Biden administration's new budget proposal leans even further into the policies that got us here in the first place.

Even as President Biden has already presided over soaring prices for gas and home heating fuels, he wants massive new tax hikes on American-made fossil fuels. He wants to skyrocket discretionary domestic spending on a whole catalog of liberal wish-list items, and he wants to compound the pain on our economy by slapping the biggest tax hikes in American history right on top of all of it.

So the past year has taught us how painful Washington Democrats' policies can be for hard-working Americans. The administration needs to stop trying to dig this hole any deeper.

FOREIGN POLICY

Mr. President, now, on another matter, runaway inflation and historic tax hikes aren't the only signs that President Biden's budget was crafted in fantasyland. And, amazingly, yesterday, even as the Biden administration was proposing the biggest tax hikes in American history, that wasn't even the biggest problem of the day.

Most of President Biden's press conference yesterday focused on seemingly major inconsistencies between his public remarks on foreign policy and the actual policy of his administration. A few days ago, President Biden seemed to dramatically change American policy toward Putin's regime during a major international speech before White House staff walked back his comment. Yesterday, the President suggested he was just sharing his personal moral view, not speaking in his policymaking capacity.

We are talking about the Commander in Chief here.

Another time recently, the President seemed to suggest that if Russia violated international law and used chemical weapons in Ukraine, the United States would respond "in kind." Again,

his staff had to quickly explain what the administration actually meant.

The United States does not maintain a chemical weapons stockpile for use. To the contrary, we are working hard to safely dispose of many decades-old munitions.

I know a lot about that. Throughout my career in Washington, I have worked to ensure the stockpile of chemical munitions at the Blue Grass Army Depot in my State are safely but surely disposed of.

But the head-scratching gaffes don't stop there. After spending weeks gratuitously listing all the things America would not do, such as deploy troops into Ukraine, President Biden in Poland seemed to tell American troops they would soon be seeing the bravery of Ukraine's resistance firsthand in person. Again, the White House claimed the President was not actually changing policy.

The troubling inconsistencies go beyond isolated gaffes. The confusion appears to run deeper. For months, White House officials repeatedly insisted the President and his administration were focused on deterring Russian escalation against Ukraine. They repeatedly stressed how the threat of sanctions would serve as a deterrent against further invasion.

But last week, with the world watching, President Biden shockingly claimed he never thought or intended that sanctions would actually deter Putin. This leaves unanswered the question of what he thought they would achieve.

The wild swings between the administration's overly cautious, almost skittish official posture and the President's emotional freelancing is becoming dizzying.

As NATO allies scrambled to help Ukraine fight back, the President refused to authorize a transfer of fighter jets. The administration strangely and unjustifiably felt if we merely facilitated—facilitated—such a transfer, it could be too provocative. But we are supposed to brush it off when the same President seems to actually call for regime change in Russia? Facilitating the transfer of some old fighter jets is too provocative, but remarks like that are just speaking from the heart?

Sadly, mixed messages and confusion have been one of the only consistent threads running through this administration's foreign policy from the very start. The White House chafed against clear warnings from its own military advisers about how quickly Afghanistan could fall after U.S. withdrawal. They stood by the President's assertion that "there's going to be no circumstance where you see people being lifted off the roof of an embassy of the United States," until that exact scene happened in Kabul.

With respect to both the Taliban and Putin, the administration has said repeatedly they think that the fear of becoming international pariahs will actually constrain their actions—as if these regimes cared a lick about global PR.

At the risk of repeating what I and many others have said for years, despots can't be shamed into conforming to polite international society. You can't check lawless violence with finger wagging.

We know what deters aggression: American strength and American clarity. That is what deters aggression.

I have just explained how American clarity has been in too-short supply. But, unfortunately, the Biden administration also seems unwilling to plan and invest in long-term American strength.

Even under the administration's wildly—wildly—optimistic projections about inflation, their budget proposal would only flat-fund our Armed Forces. In the best case scenario, they want American defense to just tread water, nowhere near the robust real growth that bipartisan experts say we need to modernize and keep pace with both Russia and China.

And in the more likely event that Democrats don't magically have inflation plummeting in just a few months, then President Biden's policy would amount to an actual cut—cut—to our defense spending, ramping down American military funding while China ramps theirs up.

China is building for the battlefield of the future. Iran continues funding terrorists and plowing forward with nuclear development. Russian aggression is actively challenging our capacity to keep ourselves and our partners armed.

And the Biden administration sees this as a moment to ease off the gas?

That could not be more mistaken.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Republican whip.

NOMINATION OF KETANJI BROWN JACKSON

Mr. THUNE. Mr. President, last week's Judiciary Committee hearing gave Senators the opportunity to hear directly from President Biden's nominee to the Supreme Court, Judge Ketanji Brown Jackson, to help them decide whether she is an appropriate candidate for the Nation's highest Court.

My approach to deciding whether or not to vote for a Supreme Court nominee or any judicial nominee is pretty simple. I look at the character and qualifications, and most of all, I look at the question of whether the nominee understands the limited role of the judiciary and the separation of powers.

Our Federal Government, of course, has three distinct branches: the legislative branch, which makes the laws; the executive branch—the President and executive Departments—which executes the laws; and the judiciary,

which interprets the laws. Pretty simple, right? Civics 101. Too often, however, our colleagues on the left look to the judiciary to usurp the role of the legislative branch. They look for activist judges who will not just interpret the law but who will go beyond the law to deliver the policy outcomes that liberals are interested in, whether that is an aggressive abortion agenda, restraint of the free exercise of religion, or liberals' preferred approach to immigration.

President Biden, for example, specifically noted that he would only appoint judges who could be relied on to rule in favor of *Roe v. Wade* and a right to abortion. Well, that is a big problem because delivering specific political outcomes is not the job of the judicial branch. In our system of government, policy decisions are vested in the legislative branch and are made there by the people's democratically elected representatives. Judges have discretion in applying the laws, but their discretion is to be guided by the plain text of the law and by the intention of the people's representatives in drafting the statute. Otherwise, we end up not with government of the people but with government by an unelected, unaccountable group of judges.

President Biden has unfortunately placed himself squarely in the camp of those who would like to see the judiciary take an active role in making policy. "The people that I would appoint to the Court," President Biden said during his campaign for President, "are people who have a view of the Constitution as a living document, not as a staid document."

Well, let me just talk about that for a minute. What is a Constitution if not a staid document? If there is no fixed meaning to the Constitution, if it can be stretched and adjusted and expanded by judges at their discretion, then why have a Constitution? The whole point of the Constitution—of written law in general, I would argue—is that it is fixed, "staid," to quote the President. The rule of law, equal justice under the law—these concepts rely on the idea that the law has a fixed meaning, that there is one law that applies equally to everyone.

If the Constitution does not have a fixed meaning, it cannot be the supreme law of the land. It cannot be a guide to which we can all appeal. A living Constitution is a meaningless one. Of course that doesn't mean that the Constitution will always stay exactly the same. There is a process, as we all know, for amending the Constitution so that needed changes can be made. But these changes have to be made through the amendment process, with the concurrence of three-fourths of the States.

That is not what the President is talking about. When the President talks about a living Constitution, he is not talking about periodically amending the Constitution via the process laid out within the Constitution itself;

what he is talking about is nominating judges who will take it upon themselves to amend the Constitution through their rulings by finding new rights and authorities as needed to advance a particular political agenda. That is deeply concerning, particularly when we are talking about a lifetime appointment to the highest Court in the land.

Unfortunately, after watching last week's Judiciary Committee hearing and examining Judge Jackson's record, I am concerned that her jurisprudence reflects President Biden's belief in an activist judiciary.

As has become clear, Judge Jackson has a strong point of view when it comes to sentencing guidelines in certain cases. That is not in and of itself a problem, of course. Judges can and do have strong opinions about any number of issues that come up in the law. What is a problem is it seems that Judge Jackson has allowed her personal opinions to shape her judicial decisions.

For example, as a Federal trial judge, she repeatedly chose to reject sentencing guidelines and the recommendations of prosecutors in favor of lenient sentences for those who possess and distribute child pornography. It appears that she had a record of advocating for leniency with respect to these types of crimes during her time at the U.S. Sentencing Commission and that she then applied those opinions to her sentencing practices when she became a Federal judge.

For this reason and more, I am deeply concerned that her record suggests that she would allow her personal opinions on issues like sentencing to shape her decisions on the Supreme Court. A Supreme Court Justice's allegiance must be to the plain words of the law and the Constitution, not to any personal political opinion, and I am not convinced that Judge Jackson meets that standard.

My concern has only been heightened by Judge Jackson's inability or refusal to define her judicial philosophy. It should not be difficult for a nominee to the Supreme Court to lay out her theory of constitutional interpretation. Given how often her strong personal opinions have appeared to influence her decisions as a judge and absent a clearly expressed judicial philosophy that rejects personal opinion in favor of the plain meaning of the law and the Constitution, I am concerned that her judicial approach would follow the "living Constitution" model that President Biden embraces.

Finally, I was deeply concerned by Judge Jackson's refusal to reject Court packing. Court packing, of course, is a long-discredited idea that has been revived by members of the far left and increasingly embraced by the Democratic Party. The idea behind it is simple. If the Supreme Court isn't delivering the decisions you want, expand the number of Justices until you can be pretty sure you will get your preferred outcomes.

The problems with this approach are obvious, starting with the question, where does it end? It is easy to envision a Democrat-led Congress packing the Court with additional Democrat-selected Justices and then a Republican-led Congress coming in and matching those new Justices with additional Republican-appointed Justices and on and on and on. Pretty soon, the size of the Supreme Court would be approaching the size of the U.S. Senate. I can think of no approach more guaranteed to bring about a complete delegitimization of the Supreme Court.

Do Democrats seriously think that there is any—any—American who would regard the Supreme Court as a nonpartisan institution after it had been packed full of Democrat Justices or, if it were Republicans who were advancing this Court-packing plan, with Republican Justices? Court packing would instantly turn the Supreme Court into nothing more than a partisan extension of the legislative branch, which is why it is so concerning that Judge Jackson has repeatedly—repeatedly—declined to oppose it.

Both Justice Ginsburg and Justice Breyer spoke out against Court packing during their time on the Supreme Court, so this is a subject on which Judge Jackson can and should have felt free to speak. That she did not do so only underscored my concern that she is too open to allowing politics to shape the judiciary.

I enjoyed meeting with Judge Jackson, and I respect her achievements, but I cannot in good conscience vote for a Supreme Court Justice whose record indicates that she will allow her personal political opinions to shape her judicial decisions.

The rule of law depends upon having Justices who decide cases based on the plain meaning of the law and the Constitution, not on personal beliefs or political considerations.

I can only vote to confirm a Justice who I believe will respect the separation of powers and the limited role of a Justice and refuse to allow her personal opinions to influence her decisions on the Bench.

For these reasons, I cannot support Judge Jackson's confirmation to the Supreme Court.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOOMEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNOCK). Without objection, it is so ordered.

NOMINATION OF LISA DENELL COOK

Mr. TOOMEY. Mr. President, I rise today to speak on the nomination of Professor Lisa Cook to serve as a Governor of the Federal Reserve Board.